

Written Testimony of  
Ron Curry  
Secretary of the New Mexico Environment Department

Before the

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Reform  
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## **Introduction**

Thank you Chairman Waxman, Representative Davis, and members of the committee for inviting me to testify today. My name is Ron Curry and I am the Cabinet Secretary of the New Mexico Environment Department in the administration of Governor Bill Richardson. I am here to testify today on how New Mexico has addressed climate change through the permitting of new coal fired power plants.

Global climate change is an extremely important issue to New Mexico. Temperatures in New Mexico increased an average 2 degrees Fahrenheit over the past century and are expected to continue to rise. New Mexico's precious, limited water supply will be extremely vulnerable if temperatures increase and drought conditions continue. We expect the warming trend to result in more limited water resources, more extreme weather events, reduced biodiversity and increased air pollution, which will adversely affect New Mexico's infrastructure and economy. In the desert southwest, we simply have no water to waste and we cannot afford to wait to address climate change.

Under the leadership of Governor Richardson, New Mexico is addressing climate change head on. Governor Richardson has established some of the toughest state greenhouse gas emissions reduction targets in the nation -- 2000 levels by the year 2012, 10 percent below 2000 levels by 2020 and 75 percent below 2000 levels by 2050. The Governor also spearheaded the Western Climate Initiative to address this issue regionally. Governor Richardson also established the New Mexico Climate Change Advisory Group. This diverse group of 40 stakeholders from industry, environmental groups and local and tribal governments developed 69 greenhouse gas emissions reduction strategies to achieve the Governor's emissions reduction targets. When the state completes the implementation of all the group's reduction recommendations, we will exceed the Governor's emissions reduction targets at significant net savings to our state's economy.

Many of the recommendations from the advisory group focus on New Mexico's energy economy. New Mexico historically has been a fossil energy state. We are third in the nation for onshore gas production and fifth in oil production. We export about half the electrical power generated in the state, which is mostly from coal fired power plants. However, if we are to effectively address climate change, we must change and diversify our energy economy to include energy production that is efficient, cost-effective and less polluting. In New Mexico, the number one source of greenhouse gas emissions is power production, while the number two source is production and processing of oil and gas. Those two industries combined account for nearly two-thirds of the greenhouse gas emissions in the state.

## **Permitting New Power Plants**

To combat global warming, we must effectively address carbon dioxide emissions from coal fired power plants. Nationally, these emissions account for about 40% of all greenhouse gas emissions. Since new plants that come online today will operate for about a half a century and carbon dioxide emissions remain in the atmosphere for at least 100 years, the decisions we make today regarding these plants will drive atmospheric

concentrations for decades. Each new conventional coal plant built without technology to reduce or capture carbon dioxide emissions is a step backwards and does not move us towards a future of more safe and efficient energy use.

Even before Governor Richardson brought together the advisory group, the state took steps to address carbon dioxide emissions in the permitting of new coal fired power plants. In 2002, New Mexico became the first state in the nation to require an applicant for a coal fired power plant to consider Integrated Gasification Combined Cycle (IGCC) technology when determining the Best Available Control Technology (BACT) for that facility. This is significant because many believe that not only does this technology result in fewer criteria pollutant emissions and lower water consumption than most conventional power plant technologies, but it is also currently the most economical way to capture carbon from coal in the power production process.

In a December 2005 letter, EPA stated that IGCC need not be a part of the BACT analysis for a conventional pulverized coal-fired unit because it would “redefine the source”. New Mexico strongly disagrees with this statement. The Clean Air Act states that BACT should take into account both “clean fuels” and “innovative fuel combustion techniques”, and the legislative history shows that this language was intended to include both cleaner forms of coal fuels and clean coal combustion technology. During deliberation of the 1977 CAA Amendments, Senator Huddleston of Kentucky added language *specifically* to promote the consideration of coal burning options such as fluidized bed boilers and gasification technologies. IGCC technology is currently available and technologically feasible, as evidenced in part by the proposed construction of numerous IGCC power plants around the country. Congress intended the Clean Air Act to act as a regulatory driver that promotes the implementation of advanced energy technologies.

The Clean Air Act requires the assessment of “impacts other than impacts on air quality standards due to emissions of the regulated pollutant in question, such as solid or hazardous waste generation, discharges of polluted water from a control device, visibility impacts, or emissions of unregulated pollutants” in the BACT analysis. Although carbon dioxide emissions are currently unregulated, the impacts of these emissions are significant and result in adverse impacts to our state, the nation and world.

Governor Richardson has established state-wide greenhouse gas emission reduction goals. It would be difficult, if not impossible, for us to meet these goals if another conventional coal fired powered plant were constructed in the state. The greenhouse gas emissions from a conventional coal-fired power plant are far greater than our opportunities to reduce emissions from other sources in the state. This is why we were very concerned when EPA Region 9 recently issued a draft permit for a 1500 MW supercritical coal fired power plant on the Navajo Nation, the Desert Rock facility. EPA did not require the applicant to consider IGCC in the BACT analysis and did not even ask the applicant to calculate carbon dioxide emissions for the plant. It is our estimate that if this plant is constructed, it will emit about 12 million metric tons of carbon dioxide annually.

New Mexico does not see statements in the December 2005 EPA letter or recent EPA permit decisions as establishing policy for states. Our state has EPA's approval of our state's implementation plan for the Clean Air Act, so New Mexico has full authority to make decisions regarding pollutants in accordance with EPA guidelines and regulations. In considering carbon dioxide emissions from proposed power plants, New Mexico is simply implementing the Clean Air Act provisions, and EPA should do the same. EPA has not gone through any formal rule-making regarding IGCC and CO2 emissions in the BACT analysis, nor has the dust settled on recently issued EPA permits for coal-fired power plants. EPA's recent statements and actions will not affect how New Mexico conducts the BACT analysis for coal fired power plants.

### **EPA vs. Massachusetts**

The recent Supreme Court decision that carbon dioxide is a pollutant should provide EPA with impetus to address carbon dioxide emissions from stationary and mobile sources, though we have not seen evidence of this yet. In New Mexico, we have established greenhouse gases as a regulated pollutant and therefore we have the authority to regulate greenhouse gas emissions in the state. Just last month we exercised this authority with the adoption of the nation's most comprehensive greenhouse gas emissions reporting rules. This rule requires the mandatory reporting of greenhouse gas emissions from certain industrial sectors starting with reporting year 2008.

### **Future Strategies**

We believe that the best way to regulate and reduce greenhouse gas emissions is through a mandatory market-based greenhouse gas reduction program that covers all major economic sectors including power production. Once there is a cost to emitting carbon, power plants that control emissions will be more economical than those that don't. In the absence of a strong national climate program, Governor Richardson is pushing for market-based solutions at the regional level. On February 26, 2007, he signed a memorandum of understanding with Governors Arnold Schwarzenegger of California, Janet Napolitano of Arizona, Chris Gregoire of Washington and Ted Kulongoski of Oregon creating the Western Climate Initiative. Since this time, Utah, Manitoba and British Columbia have joined as official members, while other jurisdictions are participating as observers. The partners have set a regional greenhouse gas emissions reduction goal of 15% below 2005 levels by 2020 and are developing a regional market based program for achieving this goal. Since utilities are a major source of greenhouse has emissions in the west, it is quite likely that this sector will be included in a regional market based program. The WCI is scheduled to complete the design of this program by August 2008.

### **Conclusions**

New Mexico understands that we cannot stop the global warming trend on our own. Our greenhouse gas emissions account for only about 1.2 percent of the national total, but we can do our part by controlling existing emissions where we can and ensuring that new facilities control or capture greenhouse gas emissions as much as possible.

New Mexico intends to continue to show other states, regions and our nation how greenhouse gases can be reduced in a responsible manner. We will continue to comply with the Clean Air Act by requiring the consideration of IGCC in the BACT analysis for any proposed coal fired power plant in the state and will consider GHG emissions when determining BACT. We will also work regionally to develop market based mechanisms for reducing greenhouse gas emissions from all sources.

By promoting advanced coal technologies we can utilize our vast coal resources to produce power in a manner that will have less impact to the environment, climate and public health while at the same time promoting job growth and economic development. We need to move forward toward new carbon capture-ready technologies for power generation so that there are no regrets in the future. From past history, we know that the power constructed today will likely be in existence for decades to come.

Lastly, I urge this committee to consider mechanisms to disallow the grandfathering of emissions from new electrical generating units into any future cap and trade program unless the facility meets specific greenhouse gas emission performance standards. There may be a rush to construct conventional coal fired power plants before new carbon regulations are in affect. Assuring that there will be a cost associated with carbon emissions from these new plants will send the right signal to industry and encourage the use of carbon emission controls in the near term.

Thank you for inviting me here today to testify on this important issue. I look forward to your questions.